

49-457. Agricultural best management practices committee; members; powers; permits; definitions

- A. A best management practices committee for regulated agricultural activities is established.
- B. The committee shall consist of:
  - 1. The director or the director's designee.
  - 2. The director of the department of agriculture or the director's designee.
  - 3. The dean of the college of agriculture of the university of Arizona or the dean's designee.
  - 4. The state director of the United States natural resources conservation service or the director's designee.
  - 5. One person actively engaged in the production of citrus.
  - 6. One person actively engaged in the production of vegetables.
  - 7. One person actively engaged in the production of cotton.
  - 8. One person actively engaged in the production of alfalfa.
  - 9. One person actively engaged in the production of grain.
  - 10. One soil taxonomist from the university of Arizona college of agriculture.
- C. The governor shall appoint the members designated pursuant to subsection A, paragraphs 5 through 10 of this section for a term of six years. Members may be reappointed. Members are not entitled to compensation for their services but are entitled to receive reimbursement of expenses pursuant to section 38-611, subsection D.
- D. The committee shall elect a chairman from the appointed members to serve a two year term.
- E. The committee shall meet at the call of the chairman or at the request of a majority of the appointed members.
- F. The department of environmental quality, the department of agriculture and the college of agriculture of the university of Arizona shall cooperate with and provide technical assistance and any necessary information to the committee. The department of environmental quality shall provide the necessary staff support and meeting facilities for the committee.
- G. Notwithstanding subsections I, J and K of this section, a person engaged in a regulated agricultural activity on the effective date of this section shall comply with the general permit as provided in subsection H of this section by December 31, 2001. A person who commences a regulated agricultural activity after December 31, 2000, shall comply with the general permit within eighteen months of commencing the activity.
- H. By June 10, 2000, the committee shall adopt, by rule, an agricultural general permit specifying best management practices for regulated agricultural activities to reduce PM-10 particulate emissions. A person subject to an agricultural general permit pursuant to this section is not subject to a permit issued pursuant to section 49-426 except as provided in subsection K of

this section. The committee shall adopt by rule a list of best management practices, at least one of which shall be used to demonstrate compliance with applicable provisions of the general permit no later than December 31, 2001. Best management practices may vary within the Maricopa PM-10 particulate nonattainment area according to regional or geographical conditions or cropping patterns. The director shall submit the rule to the United States environmental protection agency as a revision to the applicable implementation plan within sixty days of adoption.

I. If the director determines that a person engaged in a regulated activity is not in compliance with the general permit, and that person has not previously been subject to a compliance order issued pursuant to this section, the director may serve upon the person by certified mail an order requiring compliance with the general permit and notifying the person of the opportunity for a hearing pursuant to title 41, chapter 6, article 10. The order shall state with reasonable particularity the nature of the noncompliance and shall specify that the person has a period that the director determines is reasonable, but is not less than six months, to submit a plan to the supervisors of the natural resource conservation district in which the person engages in the regulated activity that specifies the best management practices from among those adopted in rule pursuant to subsection H of this section that the person will use to comply with the general permit.

J. If the director determines that a person engaged in a regulated activity is not in compliance with the general permit, and that person has previously submitted a plan pursuant to subsection I of this section, the director may serve upon the person by certified mail an order requiring compliance with the general permit and notifying the person of the opportunity for a hearing pursuant to title 41, chapter 6, article 10. The order shall state with reasonable particularity the nature of the noncompliance and shall specify that the person has a period that the director determines is reasonable, but is not less than six months, to submit a plan to the department that specifies the best management practices from among those adopted in rule pursuant to subsection H of this section that the person will use to comply with the general permit.

K. If a person fails to comply with the plan submitted pursuant to subsection J of this section, the director may revoke the agricultural general permit for that person and to require that the person obtain an individual permit pursuant to section 49-426. A revocation becomes effective after the director has provided the person with notice and an opportunity for a hearing pursuant to title 41, chapter 6, article 10.

L. The committee may periodically reexamine, evaluate and modify best management practices. Any approved modifications shall be submitted to the United States environmental protection agency as a revision to the applicable implementation plan.

M. The committee shall develop and commence an education program by June 10, 2000. The education program shall be conducted by the director or the director's designee or designees.

N. In this section, unless the context otherwise requires:

1. "Agricultural general permit" means best management practices that:

(a) Reduce PM-10 particulate emissions from tillage practices and from harvesting on a commercial farm.

(b) Reduce PM-10 particulate emissions from those areas of a commercial farm that are not normally in crop production.

(c) Reduce PM-10 particulate emissions from those areas of a commercial farm that are normally in crop production including prior to plant emergence and when the land is not in crop production.

2. "Applicable implementation plan" means that term as defined in 42 United States Code 7601(q).

3. "Best management practices" means techniques verified by scientific research, that on a case by case basis are practical, economically feasible and effective in reducing PM-10 particulate emissions from a regulated agricultural activity.

4. "Maricopa PM-10 particulate nonattainment area" means the Phoenix planning area as set forth in 40 Code of Federal Regulations part 81.303.

5. "Regulated agricultural activities" means commercial farming practices that may produce PM-10 particulate emissions within the Maricopa PM-10 particulate nonattainment area.